

## REMARKS/ARGUMENTS

Claims 1, 11- 21, 27-36, and 38-46 are pending in the present application. Claims 1, 11, 16, 18, 21, 38, 41, and 43 have been amended to better describe the present invention. Claim 37 has been canceled.

1. Applicants acknowledge and thank the Examiner for allowing claim 16 if rewritten in independent form. Applicants elect to not amend the claim at this time and will wait to the conclusion of the prosecution of the remaining claims.

2. Claims 1, 11-15, 17, 19-21, 28-36, and 41-46 stand rejected under 35 U.S.C. §102(e) as being anticipated by Fernald et al. (US Patent Application Publication 2004/0168523).

Independent claims 1, 11, 21, 41, and 43 recite an apparatus or method including ultrasonic sensors disposed at locations along the conduit along a longitudinal direction of the conduit. As amended, each ultrasonic sensor includes an ultrasonic transmitter and an ultrasonic receiver. The ultrasonic sensors provide a respective sensor signal indicative of a parameter of an ultrasonic signal propagating through the fluid. In response to the sensor signals, a convective ridge is defined in a  $k$ - $\omega$  plane, wherein the slope of the convective ridge is determined to determine the flow velocity of the fluid.

Applicants have incorporated the limitation of claim 37 into the independent claims 1, 11, 21, 41, and 43 which has been rejected under 35 U.S.C. 103(a) as being unpatentable over Fernald et al. (U.S. Patent Application Publication 2004/0168523) in view of Lynnworth (U.S. Patent Application Publication 2004/0011141). Applicants therefore contend that the rejection under 35 U.S.C. 102(e) is now moot.

3. Claims 12-15, 17, 19, 20, 28-36, 42, 44, 45, and 46 variously depend on independent claims 1, 11, 21, 41, and 43, and therefore are not anticipated by Fernald et al. for at least the reasons provided hereinbefore.

4. Claims 18, 27, and 37-40 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fernald et al. (U.S. Patent Application Publication 2004/0168523) in view of Lynnworth (US Patent

Application Publication 2004/0011141). Furthermore, in light of the amendments, Examiner would similarly reject claims 1, 11-15, 17, 19-21, 28-36, and 41-46.

As noted by Examiner, Fernald et al is cited under 35 U.S.C. 102(e), and therefore the present obvious rejection is a 35 U.S.C. 102(e)/103 obviousness rejection. According to 35 U.S.C. 103(c)(1), "Subject matter developed by another person, which qualifies as prior art only under one or more of the subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person." The Attorney of Record states that the present Application Serial No. 10/756,977 and U.S. Patent Publication No. US2004/0011141 were, at the time the invention of Application Serial No. 10/756,977 was made, owned by CiDRA Corporation.

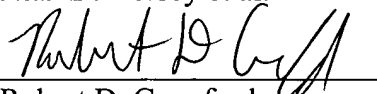
Applicants contend under 35 U.S.C. 103(c) that the subject matter in Fernald et al. is now disqualified, and therefore the rejection of claims 18, 27, and 37-40 is now moot.

Applicants, therefore, submit that claims 1, 11, 21, 41, and 43 are patentable over Fernald et al. in view of Lynnworth for at least this reason, and it is respectfully requested that these claims be reconsidered and allowed.

5. Claims 12-15, 17 - 20, 27-36, 38-40, 42, and 44-46 variously depend on independent claims 1, 11, 21, 41, and 43, and therefore are patentable over Fernald et al. in view of Lynnworth for at least the reasons provided hereinbefore. It is respectfully requested that these claims be reconsidered and allowed.

6. A petition for a three-month extension of time under 37 CFR 1.136 is submitted herewith. Please debit our Deposit Account No. 50-0260 Order No. CC-0700 for **\$1020.00** for the three (3) month extension of time. Any deficiency or overpayment should be charged or credited to Deposit Account No. 50-0260 Order No. CC-0700.

Respectfully submitted,  
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